

# EXHIBIT 23

**EXHIBIT**  
**23**

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**From:** Clubok, Andrew (DC)  
**Sent:** Thursday, May 20, 2021 10:44 AM  
**To:** Eric Soderlund; George, Katie (CH); Tomkowiak, Sarah (DC); Allen, Robert (CC)  
**Cc:** Frances A. Smith; Judith Ross  
**Subject:** RE: Highland Adversary 21-03020: Motion to Quash Subpoenas

The Court asked for preview of things to come – she just admonished Dondero’s counsel for not doing that (and you heard her). Accordingly, I plan to give her the heads up of the motion. You all now have notice I will be doing that. Two of you were on the hearing until moments ago. Please return; if you do not, I will report this effort to get you to rejoin the call to the court as need be.

Furthermore, please answer the question that Katie posed re your good faith basis, if any, for the statement she referenced.

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**From:** Eric Soderlund <Eric.Soderlund@judithwross.com>  
**Sent:** Thursday, May 20, 2021 11:41 AM  
**To:** Clubok, Andrew (DC) <Andrew.Clubok@lw.com>; George, Katie (CH) <kathryn.george@lw.com>; Tomkowiak, Sarah (DC) <Sarah.Tomkowiak@lw.com>; Allen, Robert (CC) <Robert.Allen@lw.com>  
**Cc:** Frances A. Smith <Frances.Smith@judithwross.com>; Judith Ross <Judith.Ross@judithwross.com>; Eric Soderlund <Eric.Soderlund@judithwross.com>  
**Subject:** RE: Highland Adversary 21-03020: Motion to Quash Subpoenas

Andy,

I am surprised and disappointed that you would improperly try to “preview” a motion you have not even filed at a hearing you haven’t noticed.

Doing so would constitute an improper ex parte communication with the Court.

If you want a hearing on your motion to compel, you should follow the applicable procedural rules.

## **Eric Soderlund**

### **Ross & Smith, PC**

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**From:** [Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com) <[Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com)>  
**Sent:** Thursday, May 20, 2021 10:33 AM  
**To:** Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>; [kathryn.george@lw.com](mailto:kathryn.george@lw.com); [Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com); [Robert.Allen@lw.com](mailto:Robert.Allen@lw.com)  
**Cc:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>; Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>  
**Subject:** RE: Highland Adversary 21-03020: Motion to Quash Subpoenas

Eric and Frances:

I saw that you were both on the hearing, although I think you both just dropped. I'm going to preview our emergency motion to compel at the end of this dispute that the Court is now hearing. I invite either or both of you (or one of your colleagues) to return to the hearing.

In the meantime, we would also appreciate a (non-sarcastic) response to Katie's question below.

Thanks  
Andy

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**From:** Clubok, Andrew (DC)  
**Sent:** Thursday, May 20, 2021 11:05 AM  
**To:** 'Eric Soderlund' <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>; George, Katie (CH) <[Kathryn.George@lw.com](mailto:Kathryn.George@lw.com)>; Tomkowiak, Sarah (DC) <[Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com)>; Allen, Robert (CC) <[Robert.Allen@lw.com](mailto:Robert.Allen@lw.com)>  
**Cc:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>; Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>  
**Subject:** RE: Highland Adversary 21-03020: Motion to Quash Subpoenas

Eric:

I am surprised and disappointed by your sarcastic response to Katie's request for the good faith basis for a statement you made in a pleading. As she noted, the only support you cited was to a document that does not support the statement in question. Simply put: what is the good faith basis for your statement?

I can see you're listening to the "emergency" hearing now on discovery that does not directly involve your clients. I hope that means you can immediately respond to this question.

Thanks  
Andy

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**From:** Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>  
**Sent:** Wednesday, May 19, 2021 6:58 PM  
**To:** George, Katie (CH) <[kathryn.george@lw.com](mailto:kathryn.george@lw.com)>; Clubok, Andrew (DC) <[Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com)>; Tomkowiak, Sarah (DC) <[Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com)>; Allen, Robert (CC) <[Robert.Allen@lw.com](mailto:Robert.Allen@lw.com)>  
**Cc:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>; Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>; Eric Soderlund

<[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>

**Subject:** RE: Highland Adversary 21-03020: Motion to Quash Subpoenas

I don't recall agreeing to be deposed by you, Katie.

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**From:** [kathryn.george@lw.com](mailto:kathryn.george@lw.com) <[kathryn.george@lw.com](mailto:kathryn.george@lw.com)>

**Sent:** Wednesday, May 19, 2021 5:52 PM

**To:** Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>; [Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com); [Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com); [Robert.Allen@lw.com](mailto:Robert.Allen@lw.com)

**Cc:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>; Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>

**Subject:** RE: Highland Adversary 21-03020: Motion to Quash Subpoenas

Eric,

As we have stated previously, we disagree with your characterization and will be seeking an emergency hearing.

You also did not answer my question regarding your assertion that the Debtor allegedly provided UBS with "an apparently privileged report that included interviews with the Debtor's employees and in-house counsel." Mot. ¶ 25. What exactly are you referring to here? You cite Case No. 19-34054, Dkt. 2199 at ¶ 10 in support, which makes no mention of any privileged report or interviews.

Katie

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**From:** Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>

**Sent:** Wednesday, May 19, 2021 5:46 PM

**To:** George, Katie (CH) <[kathryn.george@lw.com](mailto:kathryn.george@lw.com)>; Clubok, Andrew (DC) <[Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com)>; Tomkowiak, Sarah (DC) <[Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com)>; Allen, Robert (CC) <[Robert.Allen@lw.com](mailto:Robert.Allen@lw.com)>

**Cc:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>; Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>; Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>

**Subject:** RE: Highland Adversary 21-03020: Motion to Quash Subpoenas

Katie,

We are opposed to the motion to compel and, since there is no "emergency," we will oppose any effort to obtain an emergency or expedited hearing on it. Since the issues in the motion to compel and in our motion to quash largely overlap, we would not oppose your motion to compel being heard along with our motion to quash, which the Court has set for July 29, 2021 at 2:30 p.m. Central time.

## **Eric Soderlund**

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**From:** [kathryn.george@lw.com](mailto:kathryn.george@lw.com) <[kathryn.george@lw.com](mailto:kathryn.george@lw.com)>

**Sent:** Wednesday, May 19, 2021 5:00 PM

**To:** Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>; [Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com); [Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com); [Robert.Allen@lw.com](mailto:Robert.Allen@lw.com)

**Cc:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>; Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>

**Subject:** RE: Highland Adversary 21-03020: Motion to Quash Subpoenas

Eric,

We plan to file a motion to compel your clients (aside from Ms. Lucas) to comply with the Subpoenas immediately and to compel Ms. Lucas to comply with the Subpoenas when she is no longer disabled. We also plan to file a related motion for an emergency hearing to ask the Court hear our motion to compel as soon as she can. Let us know if you oppose these two motions.

In addition, you argue in the motion to quash that the Debtor provided UBS with "an apparently privileged report that included interviews with the Debtor's employees and in-house counsel." Mot. ¶ 25. What exactly are you referring to here? You cite Case No. 19-34054, Dkt. 2199 at ¶ 10 in support, which makes no mention of any privileged report or interviews.

Katie

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**From:** Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>

**Sent:** Saturday, May 15, 2021 6:04 PM

**To:** Clubok, Andrew (DC) <[Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com)>; Tomkowiak, Sarah (DC) <[Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com)>; George, Katie (CH) <[kathryn.george@lw.com](mailto:kathryn.george@lw.com)>; Allen, Robert (CC) <[Robert.Allen@lw.com](mailto:Robert.Allen@lw.com)>

**Cc:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>; Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>; Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>

**Subject:** Highland Adversary 21-03020: Motion to Quash Subpoenas

Counsel,

As discussed on our meet-and-confer on May 12, we promised to get back to you before Monday regarding the subpoenas UBS has served on our clients. For the reasons articulated in the attached, we will be seeking Court relief in the form of an order quashing the subpoenas. Accordingly, we will be filing the attached motion to quash, to which we assume UBS is opposed.

Regards,

**Eric Soderlund**

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